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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/783,173	02/14/2001	David Moy	370077-3000	2184

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EXAMINER

HENDRICKSON, STUART L

ART UNIT	PAPER NUMBER
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1754

8

DATE MAILED: 01/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

983113

Applicant(s)

May

Examiner

Andrickson

Group Art Unit

1754

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- ☒ Responsive to communication(s) filed on 11/3/02
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-21, 24-27, 30-32, 35-39, 42-44, 47-51, 72, 73 is/are pending in the application.
- ☐ Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☒ Claim(s) 14-20, 30-32, 35-39, 42-44, 47-51, 72, 73 is/are allowed.
- ☒ Claim(s) 1-10, 12, 13, 21, 24, 26, 27, 30-32, 35-39, 42-44, 47-51, 72, 73 is/are rejected.
- ☒ Claim(s) 11, 25 is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement

## Application Papers

- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some\* ☐ None of the:
  - ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
  - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_ ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892 ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948 ☐ Other \_\_\_\_\_

Office Action Summary

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The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 2, 4, 5, 7-10, 12, 21, 24, 26, 27, 72 and 73 are rejected under 35 U.S.C. 102(e) as being anticipated by Kamo et al.

Kamo teaches in column 2 and the examples making a catalyst containing Mo and a carboxylate, formed on alumina. Thus, the reference, 'incorporates' a carboxylate into the metal. Even though forming carbon fibers/fibrils is not disclosed, the intended use of the catalyst does not limit it. The phosphoric 'adjusts' the pH as it is an acid.

Claims 3, 6 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kamo et al. Kamo, supra, does not exemplify treating a preformed catalyst, but suggests it in column 2 bottom; see also column 4, which discusses adding the carboxylate last so it is not degraded. Using the claimed mode is an obvious expedient to make a useful catalyst.

Claims 42-44 and 47-51 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 42, 44, 47 and 50, 'high degree of structure' is subjective (how high) and unclear as to what sort of structure is meant.

Applicant's arguments filed 11/13/02 have been fully considered but they are not persuasive.

The claims only require that the catalyst be capable of making fibrils/fibers. Because the catalyst of Kamo contains group VI and VIII metals, it is deemed to have this capability. The claims do not exclude a sulfur-containing material, so even if Kamo required sulfur for

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fibril/fiber formation, it would still render the claims unpatentable. The claims do not require fiber/fibril formation, let alone efficient production of them.

The claims are held to be indefinite since the specification passage does not say which carbon particles meet the low density, high area- and thus high structure- because 'low' density and 'high' area are unclear.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication should be directed to examiner Hendrickson at telephone number (703) 308-2539.



Stuart Hendrickson  
examiner Art Unit 1754